

Statement by the United States at the Meeting of the WTO Dispute Settlement Body

Geneva, March 21, 2017

6. EUROPEAN UNION – MEASURES RELATED TO PRICE COMPARISON METHODOLOGIES

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA (WT/DS516/9)

- The United States is intervening to express our support for the right of the European Union and other WTO Members to use a non-market economy methodology in antidumping proceedings involving China.
- WTO Members have long recognized that government intervention in a country's home market can be so significant that prices and costs are distorted and unsuitable for purposes of calculating an antidumping margin.
- Among other places, this recognition is reflected in the second Supplementary Provision to paragraph 1 of GATT Article VI, in GATT working party reports for several Contracting Parties that joined the GATT in the 1960s and 1970s, and in WTO Accession Protocols.
- As Members know, it is also reflected in China's Accession Protocol. When China joined the WTO, Members agreed that Chinese prices and costs could be rejected and that a non-market methodology could be used as long as the facts show that China remains a non-market economy.
- China's argument that the EU must cease using a non-market economy methodology regardless of the facts has no legal merit. China's argument fails to take account of the remaining provisions of China's Protocol.
- China's argument is also divorced from reality. As many Members are aware, China's government continues to intervene heavily in its economy, resulting in serious distortions to the international trading system.
- To cite just one example, China's intervention in the steel sector has significantly distorted prices and led to severe overproduction and excess capacity, with the resulting surplus dumped all over the world.
- China appears to believe that it can use the WTO dispute settlement system to take away the tools that other Members have under WTO rules to address China's distortions. This is wrong. WTO rules permit Members to use a non-market economy methodology for purposes of addressing China's distorted prices and costs. The WTO dispute settlement system cannot change the rights of WTO Members.

- The United States and many other Members affected by China's distortions use their own, different measures to treat China as a non-market economy, as we are entitled to under existing WTO rules. If China wishes to discuss those rules, it can engage with other Members and explain how it will eliminate the distortions its government policies are causing.
- If China does not address those distortions that are causing harm to so many Members' industries and workers, however, there is no basis to insist that Members cannot use appropriate WTO tools to address China's injurious dumping practices.
- In our statement today, we would also like to comment on China's attempt to bring an EU draft measure into the dispute. By their very nature, draft measures are subject to change, and it is not the appropriate role of WTO panels or the Appellate Body to offer speculative findings on such draft measures.
- In closing, we would suggest that there is no reason for China to move forward with a dispute with the EU, the United States, or any other Member.
- If China truly believes that it is a market economy, it should take advantage of our respective laws, which permit China to show that it is a market economy or that an industry is market-oriented, based on the facts.
- On the other hand, if China does not believe that it has become a market economy, then it should finally follow through with the reforms it promised WTO Members when it joined this organization.